

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS MUTUAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

No. 11-cv-30285-MAP

MERRILL LYNCH, PIERCE, FENNER &
SMITH, INC.; DEUTSCHE BANK
SECURITIES INC.; GOLDMAN, SACHS &
CO., INC.; J.P. MORGAN SECURITIES LLC;
AND RBS SECURITIES, INC.,

Defendants.

STIPULATION [AND PROPOSED ORDER] CONCERNING THE
APPLICABILITY TO THIS ACTION OF MAGISTRATE JUDGE NEIMAN'S
OCTOBER 17, 2012 ORDER REGARDING PLAINTIFF'S MOTION TO STRIKE
CERTAIN DEFENSES

WHEREAS, on April 26, 2012, Magistrate Judge Neiman recused himself from the above-captioned matter (the "Action") (Dkt. No. 43);

WHEREAS, on May 9, 2012, Plaintiff Massachusetts Mutual Life Insurance Company ("MassMutual") filed a Motion to Strike Certain Purported Defenses (the "Motion") (Dkt. No. 47) set forth in Defendants' respective April 25, 2012 Amended Answers in this Action (Dkt. Nos. 37-41);

WHEREAS, MassMutual filed similar motions to strike in nine other actions in this Court that are being overseen for discovery purposes by Magistrate Judge Neiman (*see* Dkt. No. 84 in the 3:11-cv-30035 action; Dkt. No. 66 in the 3:11-cv-30039 action; Dkt. No. 56 in the 3:11-cv-30044 action; Dkt. No. 60 in the 3:11-cv-30047 action;

107

Dkt. No. 80 in the 3:11-cv-30048 action; Dkt. No. 119 in the 3:11-cv-30094 action; Dkt. No. 97 in the 3:11-cv-30126 action; Dkt. No. 43 in the 3:11-cv-30127 action; and Dkt. No. 44 in the 3:11-cv-30141 action);

WHEREAS, on June 27, 2012, this Court referred all motions to strike to Magistrate Judge Neiman for ruling “[t]o the extent Judge Neiman has not recused himself” (Dkt. No. 60, at 4);

WHEREAS, on October 17, 2012, Magistrate Judge Neiman issued a Memorandum and Order With Regard to Massachusetts Mutual Life Insurance Company’s Motions to Strike (the “October 17 Order”);

WHEREAS, on December 4, 2012, Magistrate Judge Neiman stated that the October 17 Order did not apply to this Action because he had previously recused himself from this Action, and proposed that the parties in this Action submit a stipulation to the Court agreeing that the October 17 Order will apply to the defenses asserted in Defendants’ Amended Answers in this Action;

IT IS HEREBY STIPULATED AND AGREED by and between MassMutual and Defendants, through their undersigned counsel, AND SO ORDERED BY THE COURT, as follows:

1. The holding of the October 17 Order shall apply fully to the defenses asserted in Defendants’ Amended Answers in this Action.

2. As a result, the October 17 Order shall apply to this Action as follows:

3. The Motion is allowed as to those portions of the Sixth, Eighth, Twelfth and Fourteenth Defenses of J.P. Morgan Securities LLC's ("J.P. Morgan") Amended Answer (Dkt. No. 38) that MassMutual challenged, and is otherwise denied as to J.P. Morgan;

4. The Motion is allowed as to those portions of the Fifth, Sixth and Twenty-Seventh Defenses of Merrill Lynch, Pierce, Fenner & Smith Inc.'s ("Merrill Lynch") Amended Answer (Dkt. No. 39) that MassMutual challenged, and is otherwise denied as to Merrill Lynch;

5. The Motion is allowed as to those portions of the Eleventh, Twelfth, Nineteenth and Twentieth Defenses of Deutsche Bank Securities Inc.'s ("Deutsche Bank") Amended Answer (Dkt. No. 40) that MassMutual challenged, and is otherwise denied as to Deutsche Bank;

6. The Motion is allowed as to those portions of the Eleventh, Twelfth, Nineteenth and Twentieth Defenses of RBS Securities Inc.'s ("RBS") Amended Answer (Dkt. No. 41) that MassMutual challenged, and is otherwise denied as to RBS;

7. The Motion is allowed as to those portions of the Tenth, Eighteenth and Twentieth Defenses of Goldman, Sachs & Co.'s ("Goldman Sachs") Amended Answer (Dkt. No. 37) that MassMutual challenged, and is otherwise denied as to Goldman Sachs.

8. The parties shall have the same rights to appeal, or to seek reconsideration or modification of, this Order as the October 17 Order and by stipulating to this Order the parties do not extinguish or modify any such rights.

SO ORDERED this 26th day of December, 2012



Honorable Michael A. Ponson
United States District Judge

Dated: December 20, 2012

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Case 3:11-cv-30285-MAP Document 107 Filed 12/20/12 Page 5 of 8

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 20th day of December, 2012.

/s/ Jeffrey L. McCormick

Jeffrey L. McCormick, Esq.